

- (2) The Preliminary Hearing Order of the Administrative Law Judge should be affirmed. The Appeals Board adopts the analysis and conclusion of the Administrative Law Judge as set forth in the preliminary hearing transcript. It is uncontroverted claimant sustained injury when he slipped and fell approximately ten (10) feet from a trailer he was loading on February 13, 1995. Immediately after the incident, claimant experienced symptoms in his low back, legs, and hips. After a period of treatment with the company doctor, claimant

continued to experience symptoms in his low back and hips, and had even begun to limp. Continuing to work, claimant's symptoms began to increase.

At this juncture of the proceeding, the evidence fails to establish that claimant sustained a new injury when he slipped on July 4, 1995, while attempting to pick up a volleyball. No medical evidence has been presented to support this contention. Other than a sore groin muscle, claimant testified there was little change in the symptoms in his back, legs and hips after this incident. The Administrative Law Judge personally observed claimant and respondent's witnesses testify at the preliminary hearing and, therefore, could assess their demeanor and credibility. In this instance, the Appeals Board gives some deference to the Administrative Law Judge's assessment of claimant's credibility. Based upon claimant's testimony, coupled with the medical evidence, the Appeals Board finds for purposes of preliminary hearing that it is more probably true than not that claimant's present condition and need for medical treatment is the direct result of the accident that claimant sustained at work on February 13, 1995.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Administrative Law Judge Shannon S. Krysl's Preliminary Hearing Order dated October 26, 1995, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of December 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Timothy A. Short, Pittsburg, Kansas
Wade A. Dorothy, Lenexa, Kansas
Shannon S. Krysl, Administrative Law Judge
Philip S. Harness, Director